

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Dr. Bonnie O'Day,)	
)	
Complainant,)	
)	
v.)	File Nos.
)	
Audiovox Communications Corporation)	EB-03-TC-F-004
)	
and)	
)	
Cellco Partnership, d/b/a Verizon Wireless,)	EB-03-TC-F-001
)	
Defendants.)	

ORDER

Adopted: March 12, 2003

Released: March 13, 2003

By the Chief, Telecommunications Consumers Division, Enforcement Bureau:

1. On February 21, 2003, Dr. Bonnie O'Day ("O'Day" or "Complainant") filed a formal complaint alleging, among other things, that many of the features of a wireless telephone developed by Audiovox Communications Corporation and Cellco Partnership d/b/a Verizon Wireless ("Defendants") are inaccessible to blind or visually-impaired users. In a Notice of Formal Complaint issued on February 28, 2003, the Telecommunications Consumers Division ("Division") set forth a pleading cycle for the O'Day formal complaint proceeding.¹

2. On March 7, 2003, the Defendants jointly filed an "Unopposed Motion of Defendants to Modify Procedural Schedule" ("Motion"), requesting that the pleading cycle be modified. The Defendants ask that we adopt their modified pleading schedule because it is in all of the parties' best interests to compile a complete written record for Commission decision on the issues raised in the formal complaint proceeding.² Further, Defendants assert that a "modest extension of time for the Defendants' [sic] to submit their initial filings, coupled with the Defendants' agreement to waive challenges to the timeliness of the Complainant's interrogatory

¹ See O'Day v. Audiovox Communications Corporation and Verizon Wireless, Notice of Formal Complaint (Deputy Chief, Telecommunications Consumers Division), rel. Feb. 28, 2003. The Notice inadvertently omitted the second file number for these proceedings; both file numbers are set out in the caption to this Order.

² Motion at 2.

requests,” will facilitate production of a complete record and assist the Commission in its decision-making process.³ In a conference call with the Commission staff held on March 7, 2003, all parties acknowledged that the proposed modifications in the procedural schedule would be acceptable to them.

3. We are satisfied that granting the Defendants’ joint unopposed Motion will serve the public interest by promoting the development of a complete record in this proceeding, without harming any of the parties involved. We therefore set out the following modified procedural schedule and instructions to the parties:

- 1) On or before April 1, 2003, the defendants shall file and serve their request for Interrogatories, if any, pursuant to 47 C.F.R. §1.729.
- 2) The defendants shall, on or before April 1, 2003, file and serve an answer to the complaint that complies with 47 C.F.R. §1.724.
- 3) The complainant shall, on or before April 11, 2003, file and serve a reply to the answer that complies with 47 C.F.R. §1.726.
- 4) The complainant shall, on or before April 11, 2003, file and serve its request for up to fifteen (15) interrogatories upon each of the Defendants, and file and serve any opposition and objections to defendants’ request for interrogatories, if any. 47 C.F.R. §1.729.
- 5) The defendants shall, on or before April 18, 2003, file any opposition and objections to the complainants’ request for interrogatories, if any. 47 C.F.R. §1.729.
- 6) An initial status conference in this proceeding has been scheduled for April 22, 2003, at 10:00 a.m., in the Third Floor North Conference Room (Room 3-B142) of the Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. After reaching the 3rd Floor-North elevator lobby, the parties should call Amy Goodman at 418-1549 to be escorted to the conference room. *See* 47 C.F.R. §1.733. Counsel should be prepared to spend at least two hours in conference.
- 7) The parties shall meet prior to attending the initial status conference. One purpose of that meeting is to resolve or narrow as many issues as possible prior to the conference. The parties shall discuss matters including, but not limited to, settlement prospects, discovery, factual and legal issues in dispute, pleading schedules, and the creation of a joint statement of stipulated facts, disputed facts, and key legal issues. *See* 47 C.F.R. §1.733(b)(1).

³ *Id.*

- 8) The parties shall file with the Commission Secretary and the Commission counsel (Amy Goodman) a joint statement of all proposals agreed to and any disputes remaining with respect to the matters listed in 47 C.F.R. §1.733(b)(1)(i)-(iv) as a result of the parties' meeting. At the same time, the parties also shall submit a joint statement of stipulated facts, disputed facts, and key legal issues. *See* 47 C.F.R. §§1.732(h), 1.733(b)(1)(v), 1.733(b)(2). Both joint statements must be hand-delivered (if counsel is located in the Washington, D.C. area), faxed, and e-mailed to the Commission counsel, and filed with the Commission Secretary, on or before April 18, 2003. *See* 47 C.F.R. §1.733(b)(2). The parties may submit these two joint statements in a single document, as long as each is separately identified therein. We strongly encourage the parties to devote substantial effort to developing comprehensive and detailed joint statements. *See Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as enacted by the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, 16 FCC Rcd 6417, 5696-97 (1999) ("Section 255 Order").
- 9) The parties shall review the formal complaint rules carefully to determine whether the circumstances of this proceeding require that any additional pleadings, other than those described herein, must be served and filed prior to the initial status conference. *See, e.g.*, 47 C.F.R. §§ 1.726 (replies), 1.729 (discovery).

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), 208, and 255 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, 255, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the Unopposed Motion of Defendants to Modify Procedural Schedule IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Colleen K. Heitkamp
Chief, Telecommunications Consumers Division
Enforcement Bureau